

Decision 01-10-023 October 10, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Kenneth A. Adelman,

Complainant,

vs.

Pacific Gas & Electric Company (U 39 E),

Defendant.

Case 01-08-013
(Filed August 13, 2001)

INTERIM OPINION APPROVING PRELIMINARY SETTLEMENT

1. Summary

This Interim Opinion approves a settlement agreement entered into by complainant, Kenneth A. Adelman, and defendant Pacific Gas and Electric Company (PG&E) related to PG&E's provision of service to complainant's home in conjunction with a solar power system that complainant has installed. The settlement agreement is an interim one and is subject to further proceedings in this docket.

2. Background

On April 11, 2001, Governor Davis signed Assembly Bill (AB) X1 29 that, among other things, revised Pub. Util. Code § 2827 to increase the allowable size of net-metered photovoltaic (PV) solar generators from 10 kilowatts (kW) to 1 megawatt (or 1,000 kW). ABX1 29 was enacted as an emergency measure and became effective upon signing by the governor.

On April 16, 2001, complainant submitted an application to PG&E for interconnection of a 31-kW PV generation system. On August 14, 2001, complainant filed this complaint alleging that PG&E had unlawfully denied complainant net-metering services as required by § 2827, and seeking injunctive relief and reparations. On August 29, 2001, PG&E filed its answer to the complaint alleging that further study of complainant's solar system was required to be certain that a connection to the system would not create a hazard.

A prehearing conference (PHC) was conducted on August 31, 2001, at which time the parties were directed to explore settlement and report back at a second PHC on September 7, 2001. At the September 7 PHC, the parties reported that they had entered into an interim agreement under which complainant's PV system was permitted to operate in parallel with PG&E's distribution system at an output level no greater than 10 kW while further study of higher generation levels took place.

3. Status of AB X1 29

After AB X1 29 became law, the Commission issued a ruling setting forth a process to implement the statute. Under this ruling, utilities were ordered to submit to the Energy Division, via advice letter, pro forma tariffs to implement AB X1 29 on May 21, 2001. The tariffs were required to be effective retroactive to April 11, 2001, subject to the Energy Division finding them in compliance with ABX1 29. (*See Administrative Law Judge's Ruling On Implementation Of Assembly Bill X1 29, May 3, 2001, in Rulemaking 99-10-025.*)

Pursuant to this ruling, on May 21, 2001, PG&E filed advice letter 2118-E proposing tariff changes to Rule 21 and to its net-metering tariff to implement AB X1 29. On June 7, 2001 and June 11, 2001, PG&E filed Supplemental Advice Letters 2118-EA and 2118-EB correcting various aspects of Advice 2118-E. These

proposed tariff changes, some of them protested by other parties, have not yet been approved by the Energy Division and are therefore not yet effective.

PG&E's current net-metering tariff limits the size of "customer-generator" facilities eligible for net-metering to 10 kW. (*See* Electric Rate Schedule E-NEM, Advice Letter 2053-EA, approved by the Energy Division by letter dated January 2, 2000.) PG&E therefore currently has no tariff implementing AB 1X 29 or under which to provide complainant net-metering for complainant's 31-kW facility at output levels in excess of 10 kW.

4. Proposed Interim Settlement Agreement

On August 31, 2001, complainant's facility was interconnected with PG&E's system on agreement by complainant that his PV system would be configured to have a maximum output of no more than 10 kW. PG&E has placed complainant on PG&E's existing net-metering tariff that allows generators up to 10 kW.

On September 14, 2001, PG&E and complainant entered into an Interim Settlement Agreement. An exact copy of the settlement as submitted to the presiding officer is attached to this Interim Opinion. The parties have agreed that complainant can increase the output of his PV system to PG&E's distribution grid to 15.9 kW pending PG&E's further study of the system and, depending upon the results of that study, potentially to the full capacity of the system. As part of the settlement agreement, the parties agree to stay litigation of this complaint pending completion of the study. The parties request an interim decision by this Commission approving net-metering service to complainant above 10 kW, provided that PG&E first determines that such service will not cause a hazardous condition for complainant, his neighbors or the PG&E system.

5. Discussion

The Interim Settlement Agreement constitutes progress toward resolving issues raised in this complaint case. By allowing interim interconnection of complainant at an output of 15.9 kW, and potentially up to the full capacity of his system, and agreeing on a timeline for completion of studies of the safety issues, the parties have established a road map for further negotiations that may lead to resolution of most of the issues.

Provided all safety issues are satisfactorily resolved, we believe that the Interim Settlement Agreement sets forth a temporary deviation from PG&E's net-metering tariff that is in the public interest and should be approved.

The scope of this proceeding is set forth in the complaint and answer. We confirm Administrative Law Judge Walker as the presiding officer, and we find that no hearing is necessary prior to the issuance of this Interim Opinion.

6. Waiver of Comment Period

Because the approval of the Interim Settlement Agreement is an uncontested matter in which the relief requested is granted, the otherwise applicable 30-day comment period is waived pursuant to Pub. Util. Code § 311(g)(2) and Rule 77.7(f)(2) of the Rules of Practice and Procedure.

Findings of Fact

1. AB X1 29 on April 11, 2001, revised Pub. Util. Code § 2827 to increase the allowable size of net-metered PV solar generators from 10 kW to 1,000 kW.
2. Complainant on April 16, 2001, applied to PG&E for interconnection of his 31-kW PV generation system.
3. This complaint alleges that PG&E unlawfully denied complainant net-metering service as required by the amended Section 2827.
4. PG&E alleges that further study of complainant's solar power system is necessary to be certain that interconnection will not create a hazard.

5. The parties request approval of an Interim Settlement Agreement that permits interconnection under certain terms and conditions.

6. The Interim Settlement Agreement would permit increased output of complainant's system to 15.9 kW and, provided all safety issues are satisfactorily resolved, potentially to the full capacity of complainant's system.

7. The Interim Settlement Agreement serves the public interest and should be made effective as soon as possible

Conclusions of Law

1. The Interim Settlement Agreement should be approved.

2. PG&E should be authorized to deviate from its net-metering tariff to the extent provided by the Interim Settlement Agreement.

INTERIM ORDER

IT IS ORDERED that:

1. The Interim Settlement Agreement between Kenneth A. Adelman (complainant) and Pacific Gas and Electric Company (PG&E), a copy of which is attached hereto and made part hereof, is approved.

2. PG&E is authorized to deviate from its net-metering tariff to the extent provided by the Interim Settlement Agreement.

3. Case 01-08-013 remains open for the resolution, if necessary, of other issues.

This Interim Order is effective today.

Dated October 10, 2001, at San Francisco, California.

LORETTA M. LYNCH
President

HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

ATTACHMENT A
INTERIM SETTLEMENT AGREEMENT

September 14, 2001

preamble

1. On August 14, 2001, Kenneth A. Adelman (Complainant) filed a Complaint against Pacific Gas and Electric Company (PG&E) (together 'the Parties') before the California Public Utilities Commission (CPUC) (Docket No. 01-08-013) alleging that PG&E had unlawfully denied Complainant net-metering services as required by Public Utilities Code Section 2827, and seeking injunctive relief and reparations.
2. On August 14, 2001 Complainant also requested that the CPUC immediately issue a Temporary Restraining Order (TRO) requiring PG&E to allow Complainant to interconnect his 31 kW photovoltaic (PV) generating system to PG&E's distribution system.
3. On August 29, 2001, PG&E filed its answer to the Complaint and its Opposition to the request for a TRO.
4. On August 31, 2001 a Prehearing Conference was held by CPUC Administrative Law Judge (ALJ) Glenn Walker. ALJ Walker urged the Parties to attempt to settle the issues raised by the Complaint and convened a second prehearing conference for Friday September 7, 2001 to obtain a status report on settlement discussions.
5. On August, 31, 2001, the Parties entered into an interim letter agreement whereby Complainant's PV system was allowed to operate in parallel with PG&E's distribution system at an output level no greater than 10 kW. (Attachment A).
6. On September 7, 2001 the Parties reported to ALJ Walker that they were close to reaching an interim agreement on additional steps and issues. ALJ Walker directed that Parties to file by Friday September 14, 2001 a formal document memorializing the interim agreement.

Pursuant to their discussions, and to ALJ Walker's direction, and without waiving any issue or argument raised directly or indirectly by the complaint or answer in C.01-08-013, the Parties agree, on an interim basis, and pending further proceedings in this docket, as follows:

operation at 15.9 kW Pending Completion of Further Studies

PG&E agrees that Complainant may configure his PV system so that the maximum aggregate output shall not exceed 15.9 kW, subject to the following conditions:

Terms and Conditions

Complainant agrees to execute the Interim Interconnection Agreement attached hereto as Attachment B, unless prior to the effective date of this Interim Settlement Agreement, the Commission adopts approving net-metering tariffs for PG&E applicable to net-metering service in excess of 10 kW. in which case Complainant agrees to execute the Interconnection Agreement adopted by the Commission for such net metering service.

Adjustment For Interconnection Study

PG&E reserves the right to require downward adjustment, and agrees to permit upward adjustment, of the 15.9 kW limitation on the maximum aggregate output of Complainant's PV system if, in PG&E's reasonable judgment, the results of the interconnection studies provided for in Section II below require downward adjustment, or permit upward adjustment.

Operation Other Than That Permitted By This Section I

Complainant shall not configure his system to operate in any manner different than that permitted under this Section I without the express written authorization of PG&E.

Interconnection study

The parties agree that the following studies will be performed:

Measurements

PG&E will place measuring devices on its distribution system in the vicinity of Complainant's premises. These devices will provide PG&E with information regarding loads, currents, and voltages on the part of its distribution system providing service to Complainant and other customers in the area. The measurements will be completed during the week of September 17, 2001.

System model

PG&E will model its distribution system in the vicinity of Complainant's premises. The purpose of this model will be to provide information regarding likely system conditions occurring during fault events. The system model will be completed during the week of September 17, 2001.

Multiple inverter test/data

The Parties will use best efforts to obtain, as soon as possible, any test data reasonably necessary to resolve issues pertaining to the anti-islanding performance of multiple inverters of the type used by Complainant, and in the configuration used by the Complainant. Such data may be obtained from tests conducted by the manufacturer, PG&E or some third party.

20 kVA maximum

Based on engineering judgment and the results of the above described studies and tests, PG&E will evaluate how to address the 20 kVA maximum generator size set forth in Electric Rule 21, Section D.3.a.2 and will submit its evaluation to Complainant. .

costs of interconnection studies

PG&E shall bear and absorb the costs of the studies to be performed pursuant to this Interim Settlement Agreement until the Commission issues a final non-appealable order determining whether PG&E or Complainant is responsible for these costs. Without waiving any rights to petition for rehearing or appeal, both Parties agree to be bound by the Commission's final non-appealable order.

process following results of interconnection studies

As soon as practical after completion of the studies described in Section II above, PG&E will present the results to Complainant. The Parties agree to use best efforts to thereafter determine a mutually acceptable course of action regarding interconnection and net energy metering of Complainant's PV facility at an output level greater than 15.9 kW. If the Parties cannot agree on such a course of action within seven days of the presentation of results, either Party may request that the Commission schedule a prehearing conference in Docket C. 01-08-013 to set a schedule for the Commission to resolve remaining issues.

special facilities

PG&E agrees that it will not commence construction or installation of any facilities which in PG&E's judgment may be necessary to accommodate interconnection and net energy metering of Complainant's PV facility without an express written agreement with Complainant governing the installation of, cost of, and payment for such facilities.

stay of claims

In consideration of this Interim Settlement Agreement, the Parties agree to stay litigation of all aspects of the Complaint in docket C.01-08-013, including Complainant's request for a TRO, pending performance of their respective obligations hereunder.

APPROVAL OF THIS interim SETTLEMENT AGREEMENT

The Parties agree that this Interim Settlement Agreement will be filed in Docket C.01-08-013 and will not become effective unless or until approved by a ruling of the Presiding Administrative Law Judge or the Assigned Commissioner.

TERMINATION OF INTERIM SETTLEMENT AGREEMENT

The Parties agree that should this Interim Settlement Agreement not be approved by a ruling of the Presiding Administrative Law Judge or the Assigned Commissioner prior to September 28, 2001, either party shall have the right to terminate the Agreement, vacate the stay of litigation and request that the Commission schedule a further prehearing conference in Docket C. 01-08-013 to set a schedule for the Commission to resolve remaining issues..

Pacific Gas and Electric Company

Kenneth A. Adelman

BY: Peter Ouborg

By: Edward W. O'Neill